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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,489	09/29/2003	Sergei Vasilievich Borodaev	P69119US0	8483

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EXAMINER

BRUENJES, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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1772

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/671,489	Applicant(s) BORODAEV ET AL.	
	Examiner Christopher P. Bruenjes	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

WITHDRAWN REJECTIONS

1. The claim objection of claim 5 of record in the Office Action mailed August 2, 2006, Page 3 Paragraph 5, has been withdrawn due to Applicant's amendments in the Paper filed November 20, 2006.

2. The 35 U.S.C. 102 rejections of claims 1-8 and 12-13 as anticipated by Yen of record in the Office Action mailed August 2, 2006, Pages 4-6 Paragraph 7, have been withdrawn due to Applicant's amendments in the Paper filed November 20, 2006.

3. The 35 U.S.C. 103 rejections of claims 9-11 over Yen in view of Strutzel of record in the Office Action mailed August 2, 2006, Pages 6-7 Paragraph 10, have been withdrawn due to Applicant's amendments in the Paper filed November 20, 2006.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4 and 8-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Imanishi et al (USPN 6,054,209).

Regarding claims 1, 4 and 13-14, Imanishi et al anticipate a single layer polymer film (col.2, 1.59-61). The limitation "for food products" is given little patentable weight because it is an intended use of the article and articles are defined by what they are, not what they are used for. MPEP 2114. Imanishi et al teach the structure claimed and the film has the ability to be for food products. The film consists essentially of a polyamide matrix (col.11, 1.18-30 and 53-56) and styrenic, vinyl, olefinic, or acrylic polymers (col.11, 1.33-40 and 53-56) forming a dispersed phase. The polymers forming the dispersed phase include the same polymers described in Applicant's specification as providing high permeability with respect to smoke substances and water vapors and that it is hydrophilic and soluble in water at 20°C. These dispersed polymers include homopolymers and/or copolymers of vinyl alcohol (col.6, 1.11-

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15), acrylic acid, methacrylic acid, and maleic anhydride (col.4, 1.64 - col.5, 1.10, col.5, 1.40-57 and col.6, 1.42-47). The dispersed polymers are in the film in a total amount of 5 to 50 weight percent (col.11, 1.58-65). The dispersed phase has a linear domain size of 0.01 to 1 micrometers in a direction perpendicular to a surface of the film in the polyamide matrix (col.14, 1.14-25).

Regarding claims 2 and 3, the polyamide matrix comprises aliphatic polyamides including polyamide 6, polyamide 66 and polyamide 612 (col.9, 1.51-55).

Regarding claim 8, the film includes plasticizers, dyes, pigments, and/or technological additives (col.18, 1.19-23).

Regarding claims 9-11, the film may be uniaxially or biaxially oriented (col.18, 1.5-7). The film can also be unoriented or not stretched (col.18, 1.60-63).

Regarding claim 12, the film is for packaging by wrapping it around objects therefore it forms a tubular packaging or packet when wrapped around an object to be packaged (col.1, 1.9-11 and col.19, 1.58-62).

Regarding claims 15-16, the permeability of the film of Imanishi et al inherently falls within the claimed range of 450 to 515 g/m²/day, because the claimed product and the prior art products are substantially identical in structure and

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composition and products that are structurally the same are presumed to be inherent. Because there is a sound basis for believing that the products are the same, the applicant has the burden of showing that they are not. MPEP 2112.01.

6. Claims 1-3, 7-9, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Kumaki et al (USPN 6,617,381).

Regarding claims 1, 7 and 13, Kumaki et al anticipate a single layer polymer film. The limitation "for food products" is given little patentable weight because it is an intended use of the article and articles are defined by what they are, not what they are used for. MPEP 2114. Kumaki et al teach the structure claimed and the film has the ability to be for food products. The film consists essentially of a polyamide matrix (col.2, 1.8-10) and inorganic salts (col.2, 1.10-15) forming a dispersed phase. The salts forming the dispersed phase are inorganic salts just like the salts described in Applicant's specification as providing high permeability with respect to smoke substances and water vapors and that it is hydrophilic and the salts are soluble in water at 20°C. These dispersed salts include magnesium carbonate, calcium sulfate, and barium sulfate (col.3, 1.49-60). The dispersed polymers are in the film in a total amount of 5-150 parts per 100 parts of polyamide (col.2,

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1.14-16). The dispersed phase has a linear domain size of 0.1 to 5 micrometers in a direction perpendicular to a surface of the film in the polyamide matrix (col.4, 1.1-9).

Regarding claims 2-3, the polyamide matrix comprises aliphatic polyamides including polyamide 6, polyamide 66 and polyamide 612, and polyamide 6/66 (col.3, 1.37-40).

Regarding claim 8, the film includes technological additives (col.7, 1.20-27).

Regarding claim 9, the film is not described as being oriented.

Response to Arguments

7. Applicant's arguments with respect to claims 1-4 and 7-13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Bruenjes whose telephone number is 571-272-1489. The examiner can normally be reached on Monday thru Friday from 8:00am-4:30pm.

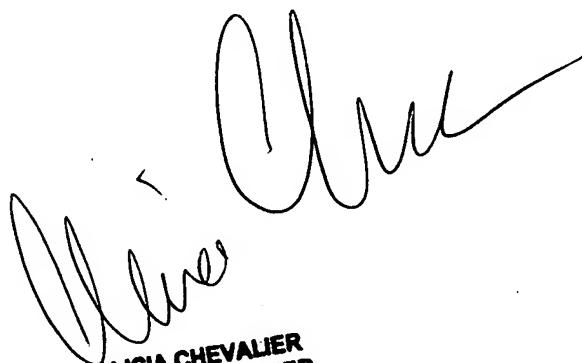
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher P Bruenjes
Examiner
Art Unit 1772

CPB
February 19, 2007



ALICIA CHEVALIER
PRIMARY EXAMINER